

OCT 14 2009

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**Nos. 08-90248, 08-90249,
08-90250, 09-90018, 09-90019,
09-90020, 09-90066 and
09-90067**ORDER****KOZINSKI**, Chief Judge:

Complainant, a pro se prisoner, has filed three misconduct complaints against three circuit judges, a district judge, and a magistrate judge. Complainant previously filed several habeas petitions, all of which were assigned to the district judge and the magistrate judge. Complainant also filed a long procession of frivolous appeals, one of which was assigned to the circuit judges. The circuit panel, like six panels before them and four since, rejected complainant's appeal because he was subject to a pre-filing order and presented claims so insubstantial that they didn't warrant further review.

In what is essentially a restyled habeas petition, complainant accuses the judges of incorrect substantive and procedural rulings. Because these charges relate directly to the merits of the judges' decisions, they must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of

Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant further alleges that the district judge and magistrate judge “conspired with [] federal prosecutors” across the country through “ex parte communications.” Complainant, however, provides no proof of this conspiracy or any details about its operation. Vague accusations do not constitute evidence of misconduct, so these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009).

Complainant’s assertion that he is innocent and his request to be freed from “unconstitutional confinement in federal prison” have nothing to do with judicial misconduct. Thus, they are not cognizable through the misconduct complaint procedure. See Judicial-Conduct Rule 3(h).

Any further misconduct complaints that rehash these same allegations will be summarily dismissed as frivolous. See Judicial-Conduct Rule 10(a); see also In re Complaint of Judicial Misconduct, 552 F.3d 1146, 1148 (9th Cir. Jud. Council 2009). Further, if complainant persists in filing frivolous complaints, we will impose sanctions. See id.

DISMISSED.